

HONE LAW

Jill Garcia, NV Bar No. 7805

jgarcia@hone.law

Kathryn C. Newman, NV Bar No. 13733

knewman@hone.law

701 N. Green Valley Parkway, Suite 200

Henderson, NV 89074

Phone 702-608-3720

Fax 702-608-7814

Attorneys for Plaintiff

Eric Collins

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ERIC COLLINS, an individual,

Plaintiff,

vs.

AUTOZONERS, LLC, a Nevada limited liability corporation; JIMMY JAMES, an individual, DOES I through X, inclusive; and ROE BUSINESS ENTITIES, I through X, inclusive,

Defendants.

Case No. 2:22-cv-00316-CDS-BNW

**MOTION FOR LEAVE TO FILE
AMENDED COMPLAINT AND
DEMAND FOR JURY TRIAL**

Pursuant to Rule 15(a)(2), Federal Rules of Civil Procedure, and Local Rule 15-1, Plaintiff Eric Collins ("Plaintiff") respectfully requests that the Court grant Plaintiff leave to file a First Amended Complaint in order to (1) substitute AutoZoners, LLC for Defendant AutoZone, Inc.; (2) add Defendant Jimmy James and asserts a claim of Intentional Infliction of Emotional Distress against him; and (3) assert a new claim of Negligent Hiring, Retention, Training and Supervision against AutoZoners, LLC. Plaintiff has met and conferred with Defendant AutoZone, Inc. (and prospective-defendant AutoZoners, LLC) in this matter; and all parties have

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1 consented to this motion in writing. This is the first request to amend the Complaint.

2 Dated this 19th day of July 2022.

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11 *Attorneys for Plaintiff*

12 *Eric Collins*



MEMORANDUM OF POINTS AND AUTHORITIES**I. ARGUMENT**

Federal Rule of Civil Procedure 15(a) provides that “a party may amend its pleading only with the opposing party’s written consent or the court’s leave,” which “[t]he court should freely give . . . when justice so requires.” Fed. R. Civ. P. 15(a)(2). The Ninth Circuit has directed that this policy be applied with “extreme liberality.” *Eminence Capital, LLC v. Aspeon*, 316 F.3d 1048, 1051 (9th Cir. 2003) (citation omitted).

In ruling on a motion for leave to amend, a court must consider whether the moving party acted in bad faith or unduly delayed in seeking amendment, whether the opposing party would be prejudiced whether an amendment would be futile, and whether the movant previously amended the pleading. *United States v. Corinthian Colleges*, 655 F.3d 984, 995 (9th Cir. 2011). “Absent prejudice, or a strong showing of any of the remaining [factors], there exists a presumption under Rule 15(a) in favor of granting leave to amend.” *C.F. ex rel. Farnan v. Capistrano Unified School Distr.*, 654 F.3d 975, 985 (9th Cir. 2011) (citation omitted).

Here, Defendant has given its written consent to amend. *See* Exhibit B. Therefore, the Court should grant the order as a matter of course. However, there are independent and sufficient grounds for the Court to grant leave to amend under Rule 15(a)(2) as well.

The presumption in favor of amendment is not countered by any of the concerns articulated by the Ninth Circuit. The proposed amendments are brought in a timely manner and in good faith and the defendant would not be prejudiced by the amendment. Defendant AutoZone, Inc., through counsel, first raised the issue of substitution of parties. This is the first request for amendment; and the case is in the very early stages of litigation. The parties have participated in an Early Neutral Evaluation (“ENE”) and exchanged initial disclosures. No depositions have been scheduled as of yet, although depositions have been noticed.

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1 **II. CONCLUSION**

2 The opposing party has provided written consent to amend the complaint as required
3 under Rule 15(a)(2). Further, the presumption under Rule 15(a) is in favor of granting leave to
4 amend. For these reasons, Plaintiff respectfully requests the Court grant its motion.

5 Dated this 19th day of July 2022.

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13 *Attorneys for Plaintiff*
14 *Eric Collins*

15 **CERTIFICATE OF SERVICE**

16 The undersigned, an employee of Hone Law, hereby certifies that on the 19th day of July
17 2022, she electronically filed and served the foregoing with the Clerk of Court for the United
18 States District Court for the District of Nevada using the CM/ECF system:

19 

20 Candice Ali, an employee of HONE LAW

21 **ORDER**

22 IT IS ORDERED that ECF No. 27 is GRANTED.

23 IT IS FURTHER ORDERED that the Clerk of Court is kindly directed
24 to detach and separately file ECF No. 27-1.

25 IT IS SO ORDERED

26 DATED: 2:49 pm, July 20, 2022

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28 BREND A WEKSLER
UNITED STATES MAGISTRATE JUDGE

